

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING )  
PHARMACY, INC. PRODUCTS LIABILITY )  
LITIGATION )  
\_\_\_\_\_ )

MDL No. 2419  
Dkt. No 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO: )

All Cases )  
\_\_\_\_\_ )

**Omnibus Motion to Compel the PSC to Respond to  
Discovery Served by the Tennessee Clinic Defendants  
and Motion to Deem Requests Admitted**

Defendants Saint Thomas Outpatient Neurosurgical Center, LLC; Howell Allen Clinic, a Professional Corporation; John Culclasure, MD; Debra Schamberg, RN, CNOR; Specialty Surgery Center, PLLC; Kenneth R. Lister, MD; and Kenneth Lister, MD, PC (collectively "Tennessee Clinic Defendants") hereby move the Court, pursuant to Fed. R. Civ. P. 26, 33, 34, 36, and 37, and for the reasons set forth in the contemporaneously-filed Memorandum in Support of this Omnibus Motion to Compel, for entry of an Order:

1. Deeming the following requests for admissions to be admitted; or, in the alternative, requiring the Plaintiffs admit, deny, or otherwise substantively respond:

The Tennessee Clinic Defendants' Requests for Admissions to the Plaintiffs Nos. 1-2, 4-18, 20-24, 26-29, 31, 34, 39, 41-42, 45, 47, 49, 51, 53-57, 60-67, 69-72, 74-92, 94-95, 101, 107-108, 110, 113-125, 127, 130-140

2. Requiring the Plaintiffs to respond to the following interrogatories:

The Tennessee Clinic Defendants' Interrogatories to the Plaintiffs Nos. 1-5, 7-8, 10-11, 13

3. Requiring the Plaintiffs to substantively respond to the following requests for production:

The Tennessee Clinic Defendants' Requests for Production to the Plaintiffs Nos. 1, 3, 5-6, 8.

#### **Oral Argument Requested**

The Tennessee Clinic Defendants request oral argument on this motion at the hearing before Magistrate Judge Boal on May 28, 2015, at 11:30 am EDT in Courtroom 14.

#### **Local Rule 37.1 Certification**

Counsel for the Tennessee Clinic Defendants hereby certify that they have met and conferred with the PSC in a good-faith effort to resolve this discovery dispute. On May 6, 2015, Matt Cline for the Tennessee Clinic Defendants and Ben Gastel for the PSC conferred via phone for over an hour. Progress was made toward reaching agreement on several areas, but significant areas of dispute remain. The parties agreed that the Tennessee Clinic Defendants would proceed with filing the instant motion to ensure that it is fully-briefed by the May 28 hearing before Magistrate Judge Boal, given the current deadline for completion of common discovery. The parties also agreed to continue to work toward resolution prior to the May 28 hearing. Either in their briefing or at argument, the parties will inform the Court of any additional areas of agreement reached prior to the hearing.

Respectfully submitted,

**GIDEON, COOPER & ESSARY, PLC**

/s/ Chris J. Tardio

**C.J. Gideon, Jr.\***

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***Attorneys for the Tennessee Clinic  
Defendants***

\* Admitted pursuant to MDL Order No. 1.

\*\* Admitted *pro hac vice*.

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be e-mailed or mailed via regular U.S. mail to those participants identified as unregistered this 7<sup>th</sup> day of May, 2015.

/s/ Chris J. Tardio

**Chris J. Tardio**